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Date/Time: 5/2/2005 8:19:50 AM
Subject: Patent Application 09/876,046, Attorney Docket AUS920010445US1

Sir:

Attached is an Amendment to the subject patent application in response to the Office Action mailed 2/11/05.

Respectfully submitted,

Robert V. Wilder
Reg. No. 26,352
Attorney for Applicant

ATTORNEY DOCKET: AUS920010445US1

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USC 112 and not for obviousness under 35 USC 103. Therefore, it is believed that for the reasons stated above, claims 3-7 and 13 are allowable under 35 USC 103(a) over Izumi.

Thus, it is submitted that claims 1-13, as herein amended, are believed to be in condition for allowance, an early notice of which is hereby requested. If any outstanding issues remain, or if the Examiner has any further suggestions for expediting the allowance of this application, and especially if one or more new references are cited, the Examiner is invited to contact the undersigned at the telephone number indicated below, prior to the issuance of another Office Action, in order to allow the applicant the opportunity to further amend the claims by Supplemental Amendment or Examiner's Amendment, as may be appropriate, to place the claims in condition for allowance. The Examiner's attention to this matter is greatly appreciated.

Respectfully submitted,

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sensing device to detect a continuing presence or absence of a prepared product as set forth in claim 7. Izumi discloses only a menu item ingredient inventory control method and nothing more. Izumi does not disclose, teach or even suggest preparing products and placing the prepared products in a holding location where their presence or absence can be detected since Izumi does not even prepare products ahead of time as disclosed in the present application. It is further noted that claim 13 does not claim that emails are novel *per se* but rather that claim 13 combined with claims 12, 11, 9, 8 and 1 present a novel combination that is patentable over, and not obvious in view of, the cited single reference. The referenced Office Action includes statements that the individual features claimed in claims 3-7 and 13 are "obvious" but there is no reference to any disclosure or suggestion in the single cited reference to support such a conclusion. The only suggestion for the combinations claims in claims 3-7 and 13 is found only in applicant's disclosure which cannot properly be used to reject applicant's own claims. There is no cited reference for any of the conclusions (i.e. bottom of page 5 through page 7) presented in the above referenced Office Action and as noted above, the only disclosure for the combinations set forth in the noted claims comes only from the applicant's disclosure. Further, the above referenced Office Action states that, for example, that although Izumi admittedly does not disclose or suggest placing prepared products in holding locations where their presence or absence can be detected, that feature "could be performed readily and easily by any person of ordinary skill in the art, with neither undue experimentation, nor ...". It is therefore submitted that claims 3-7 and 13 have been rejected under 35 USC 103 using the wrong test. As stated in the Office Action, whether or not something "can be performed by one of ordinary skill in the art without undue experimentation" is the test for adequacy or sufficiency of disclosure under 35

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applicant's claim 1 as amended. Rather, **Izumi is concerned that for a given menu (not a given time period)** the right amount of ingredients is available to prepare the items on the given "menu of the day". **In Izumi, the relationship is between menu item ingredients and menu items while in the present invention, the relationship is between the products prepared for sale and a predetermined period of time during which such products will be sold.** These are totally different and unrelated concepts and methodologies. The practice of the methodology disclosed by Izumi would not in any way help a proprietor determine if a number of items scheduled for preparation during a predetermined period of time is reasonable compared to corresponding periods of time in the past. Izumi offers not even a clue or suggestion of accessing such **time-related** past product sales information as is clearly set forth in applicant's claim 1. Thus it is submitted that claim 1 as herein amended is allowable over Izumi. Further, since dependent claims 2 and 8-12 ultimately depend from and include all of the limitations of claim 1, it is submitted that claims 1-2 and 8-12 are allowable over Izumi under 35 USC 102(b).

With regard to the rejection of claims 3-7 and 13 over Izumi under 35 USC 103(a), it is noted that claims 3-7 and 13 also ultimately depend from and include all of the limitations of amended claim 1 in addition to even further specific limitations as set forth in the individual dependent claims. Izumi makes no disclosure, teaching or even a suggestion for relating a reason for a number of products to be prepared to each entry in a database of past sales as noted in claim 3, or presenting such information on a display device as set forth in claim 4, or placing prepared products in predetermined detectable locations pending an order for sale as set forth in claim 5, or including a light sensing device to detect a continuing presence or absence of a prepared product as set forth in claim 6, or using a weight-

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dependent claims ultimately dependent from and including all of the limitations of claim 1 as well as the further limitations of the particular dependent claim.

The present invention is related to the preparation of food products which have been scheduled to be prepared for sale during a predetermined period of time. For example, if 50 hamburgers are scheduled to be prepared between 10 AM and 11 AM on Tuesday, June 10th, that information is input to a computer system and the system accesses a database to determine, for example, how many hamburgers were sold between 10 AM and 11 AM on the day before, and/or the week before, and/or the month before and/or June 10th of the preceding year. Moreover, a "corresponding past period of time" may also be graduation day for a nearby high school the year earlier, regardless of the day or date that that graduation day occurred. This method of accessing a database to check for product sales for corresponding past periods of time enables a user to be better prepared to have a reasonable and more accurate number of prepared products available for sale on a given day and/or time period. Thus the present invention deals with determining a number of products that will be prepared for a predetermined period of time, i.e. there is a stated relationship between a number of products to be prepared for a given time period.

The Izumi reference, on the other hand, deals with inventory control and insuring that there are enough raw materials available to prepare dishes that are presented on a "menu of the day". To do this, Izumi refers to the amount of raw materials used in the past to prepare the menu items for a particular menu. There is no disclosure in Izumi of "determining a number of food products which have been scheduled to be prepared for sale during a predetermined period of time" as is clearly recited in

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IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

IN RE APPLICATION OF:

INVENTOR(S) : Banerjee, et al
APPL. NUMBER: 09/876,046
FILED: 6/7/2001
TITLE: Food Processing
Management System

GROUP ART UNIT: 3627
EXAMINER: Gerald J. O'Connor

Docket Number: AUS920010445US1

I hereby certify that this correspondence is being transmitted by fax to Group Fax Number 703-872-9306, addressed to "Honorable Commissioner For Patents, PO Box 1450, Alexandria, Virginia 22313-1450", on the date set forth below.

Signed:

Robert V. Wilder

Name: Robert V. Wilder

Date: May 2, 2005

Honorable Commissioner For Patents
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Alexandria, Virginia 22313-1450

AMENDMENT

This Amendment is in response to an Office Action mailed 2/11/2005. The present amendment is submitted in sections, each beginning on a separate page, as follows:

Section I: AMENDMENTS TO THE CLAIMS

Section II: REMARKS